

Notice of Allowability

Application No.

10/733,225

Examiner

Peter J. Vrettakos

Applicant(s)

WOOD, BRADFORD J.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment dated 2-8-06.
2. ☒ The allowed claim(s) is/are 36-39,41-58,67-71.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 12-10-03
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Patrick Bible on 5-25-06.

The application has been amended as follows:

1. Claims 1-35,40,59-66 and 72-75 are cancelled.

2. Claims 67-70 now read:

67. The device of claim 36, wherein the amount of radiofrequency energy delivered to the electrode is capable of substantially occluding the lumen.

68. The device of claim 36, wherein the source of radiofrequency energy is capable of providing up to at least 200 watts of radiofrequency energy to the electrode.

69. The device of claim 36, wherein the source of radiofrequency energy is configured to provide radiofrequency energy to the electrode in a range between about 5 watts and about 200 watts.

70. The device of claim 36, wherein the source of radiofrequency energy is configured to provide radiofrequency energy to the electrode in a range between about 20 watts and about 200 watts.

3. The Specification CROSS REFERENCE TO RELATED APPLICATION section:

"This application claims the benefit of U.S. Provisional Patent Application No. 60/254,348 filed December 7, 2000, incorporated by reference herein in its entirety." **Is deleted.**

4. The Specification CROSS REFERENCE TO RELATED APPLICATION section:

"This application is a Divisional of 10/017,619 12/06/2001 PAT 6,676,657 which claims benefit of 60/254,348 12/07/2000." **Is inserted.**

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Claims 36-39, 41-58 and 67-71 are pending. Claims 36, 53 and 56 are independent. Claims 53 and 56 are method claims, which include the device disclosed

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in claim 36. As such, finding claim 36 allowable in this context automatically finds claims 53 and 56 allowable.

1) 112 rejections are obviated. The Applicant has amended and clarified for the record all prior ambiguities.

2) Fleischman (5,545,193) is obviated with the "central spline" argument in addition to the claim 36 amendment. (The depicted "central spline" in the patent is an illusion.)

Note: the "central spline" is described in claim 36, "an electrode ...substantially conforms to an inner surface of a hollow organ lumen of a subject, the electrode comprising **a first section substantially surrounding a second section**, wherein the **first section and the second section are slidable relative to one another...** [.] The "central spline" (50) is also depicted in Applicant's figure 2b.

3) Tu (6,036,689) is obviated through the amendment to claim 36. Tu's "central spline" in figure 4 does not slide relative to the outer splines. The related claim language in claim 36 is in bold immediately above.

(Fleischman and Tu represent the closest prior art.)

4) An update search dated 5-27-06 has located Swanson et al. (US 2002/011548) in which several catheter embodiments include central splines, however, none of the

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catheter embodiments include a *single* electrode as claimed by the Applicant split into first and second sections comprising a central spline (a second section substantially surrounded by a first section) *with both sections slidable relative to each other*.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

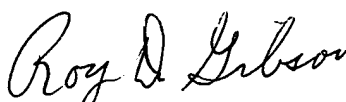
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Vrettakos whose telephone number is 571-272-4775. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Pete Vrettakos
May 27, 2006



ROY D. GIBSON
PRIMARY EXAMINER